

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE TREMONT SECURITIES LAW,	: Master File No.:
STATE LAW, and INSURANCE	: 08 Civ. 11117 (TPG)
LITIGATION	:
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This Document Relates to: All Actions	: ECF CASE
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**THE TREMONT DEFENDANTS' MEMORANDUM IN
OPPOSITION TO THE HAINES OBJECTORS' MOTION FOR RELIEF
FROM MEDIATION AND SETTLEMENT CONFIDENTIALITY PROVISIONS**

The Tremont Defendants¹ respectfully submit this memorandum in opposition to the Haines Objectors' Motion for Relief from Mediation and Settlement Confidentiality Provisions (the "Objectors' Motion," Dkt. No. 531), which seeks discovery concerning the confidential mediation that resulted in the proposed partial settlement of this action.

The Haines Objectors' motion should be denied because they have not identified any material factual issues that cannot be resolved by reference to the record before the Court. See Wal-Mart Stores, Inc. v. Visa U.S.A. Inc., 396 F.3d 96, 120 (2d Cir. 2005); Malchaman v. Davis, 588 F. Supp. 1047, 1061 (TPG) (S.D.N.Y. 1984), aff'd, 761 F.2d 893 (2d Cir. 1985) (each denying discovery). Critically, the Haines Objectors do not and cannot dispute that the settlement negotiations before, during and after the mediation were conducted entirely at arm's length. There has been no allegation, much less proof, of collusion between plaintiffs' and defendants' counsel or that defendants held back any material information bearing on the

¹ The Tremont Defendants are: Tremont Partners, Inc., Tremont Group Holdings, Inc., Tremont (Bermuda) Limited, Tremont Capital Management, Inc., Rye Investment Management, Robert I. Schulman, Rupert A. Allan, Harry Hodges, James Mitchell, Lynn O. Keeshan, Patrick Kelly, Stephen Thomas Clayton, Stuart Pologe and Cynthia J. Nicoll.

reasonableness of the settlement. Consequently, and for the additional reasons stated in Lead Plaintiffs' Memorandum in Opposition to the Haines Objectors' Motion for Relief from Mediation and Settlement Confidentiality Provisions, there is and can be no justification for turning over everything exchanged in connection with the confidential mediation.

Dated: New York, New York
June 10, 2011

Respectfully submitted,

/s/ Seth M. Schwartz

Seth M. Schwartz (Seth.Schwartz@Skadden.com)

Jason C. Vigna (Jason.Vigna@Skadden.com)

SKADDEN, ARPS, SLATE,

MEAGHER & FLOM LLP

Four Times Square

New York, New York 10036

(212) 735-3000

Attorneys for Defendants

Tremont Partners, Inc.,

Tremont Group Holdings, Inc.,

Tremont (Bermuda) Limited,

Tremont Capital Management, Inc.,

Rye Investment Management,

Robert I. Schulman, Rupert A. Allan,

Harry Hodges, James Mitchell,

Lynn O. Keeshan, Patrick Kelly,

Stephen Thomas Clayton, Stuart Pologe

and Cynthia J. Nicoll